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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,663	09/28/2001	Anthony J. Baerlocher	0112300-455	5250

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EXAMINER

RADA, ALEX P

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/14/2003

*6*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/966,663

Applicant(s)

BAERLOCHER ET AL.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

In response to the amendment filed March 5, 2003, in which the applicant provide changes to the specification, amends claims 1, 13, 19, 21, and 25, and claims 1-25 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrie '644 in view of Take Your Pick (TYP).

3. Barrie discloses video gaming machine having a processor, a plurality of selections, and a plurality of awards associated with the selections, and at least one additional award generation as recited in claims 1, 13, 19, 21, and 25; the selection are player selectable as recited in claims 2 and 15; at least one database of the awards and the awards accessible by the processor as recited in claim 3; a plurality of databases accessible by the processor having a number of awards as recited in claim 4; the selection is one of the plurality of selections not previously selected as recited in claims 8 and 10; the award generation yields another supplementing award as recited in claim 9; the processor randomly generates an award from among the plurality of awards as recited in claim 14; the storage means storing a plurality of groups of awards and supplementing

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awards as recited in claim 18; the award generation chooses from remaining unselected awards of the plurality of awards as recited in claim 20. Barrie does not expressly disclose at least one supplementing award associated with at least one of the selections and the supplementing award including an award provided to the player as recited in claims 1, 13, 19, 21, and 25; a plurality of supplementing awards are displayed on an electromechanical device controlled by the processor as recited in claim 11; the supplementing award limit defining a maximum number of supplementing awards associated with the selection as recited in claim 12.

TYP teaches a supplementing award associated with at least one of the selection and the supplementing award including an award provided to the player, in which the examiner interprets to be the two circles having one circle with a coin value being randomly generated as the award and the second circle being the multiplier also being randomly generated as the supplemental award, a plurality of supplementing awards are displayed on an electromechanical device controlled by the processor, and the supplementing award limit defining a maximum number of supplementing awards associated with the selection. By having a supplemental award one of ordinary skill in the art would allow game players a guaranteed win. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Barrie to include at least one supplementing award associated with at least one of the selections and the supplementing award including an award provided to the player, a plurality of supplementing awards are displayed on an electromechanical device controlled by the processor, and the supplementing award limit defining a maximum number of supplementing awards associated with the selection as taught by TYP. To do so would allow game players at a guaranteed win and an increased payout outcome.

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Regarding claims 5-7, 16-17, and 22-24, the particular generated awards used is a matter of design choice, wherein no stated problem is solved, or unexpected result obtained, by using the specific generated awards claimed versus the generated awards taught by the prior art.

***Response to Arguments***

4. Applicant's arguments with respect to claims March 5, 2003 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Baerlocher `573 discloses a computer implemented electronic game having different supplemental awards in a bonus game.

Demar `660 discloses a bonus game having a plurality of supplemental awards as a character representing a player's position traversing a course.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Am  
apr

May 8, 2003

  
S. THOMAS HUGHES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700